

BEFORE THE
PHYSICAL THERAPY BOARD
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA

In the Matter of the Accusation)
Against:)

Case #: 1D 2010 68275

Romulo Leano Garcia, Jr., PTA)

OAH # 2010120539

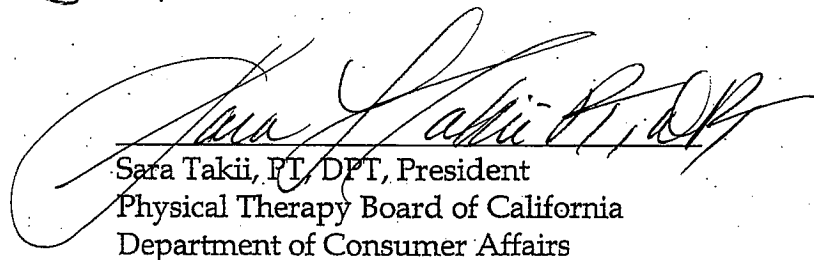
License No. AT 5168)

DECISION AND ORDER

The attached Stipulated Settlement and Disciplinary Order is hereby adopted by the Physical Therapy Board, Department of Consumer Affairs, State of California, as its Decision in the above-entitled matter.

This decision shall become effective on June 15, 2011.

It is so ORDERED on May 16, 2011.


Sara Takii, PT, DPT, President
Physical Therapy Board of California
Department of Consumer Affairs

1 KAMALA D. HARRIS
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
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Attorneys for Complainant

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10 **BEFORE THE**
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
11 **STATE OF CALIFORNIA**

12 In the Matter of the Accusation Against:

13 **ROMULO LEANO GARCIA, JR., PTA**
320 Cattlecall Drive
14 Brawley, CA 92227

15 Physical Therapist Assistant
16 License No. AT5168

17 Respondent.

Case No. 1D-2010-68275

OAH No. 2010120539

**STIPULATED SETTLEMENT AND
DISCIPLINARY ORDER**

18 IT IS HEREBY STIPULATED AND AGREED by and between the parties to the above-
19 entitled proceedings that the following matters are true:

20 **PARTIES**

21 1. Steven K. Hartzell (Complainant) is the Executive Officer of the Physical Therapy
22 Board of California. He is represented in this matter by Kamala D. Harris, Attorney General of
23 the State of California, by Heidi R. Weisbaum, Deputy Attorney General.

24 2. Respondent Romulo Leano Garcia, Jr., PTA (Respondent) is represented in this
25 proceeding by attorney Charles D. Richmond, Esq., whose address is: Charles D. Richmond,
26 Esq., 2537 Via Pisa, Del Mar, CA 92014.

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9. Respondent admits that his Physical Therapist Assistant License No. AT5168 is subject to discipline and agrees to be bound by the Board's imposition of discipline as set forth in the Disciplinary Order below.

CONTINGENCY

10. The parties agree that this Stipulated Settlement and Disciplinary Order shall be submitted to the Board for its consideration in the above-entitled matter and, further, that the Board shall have a reasonable period of time in which to consider and act on this Stipulated Settlement and Disciplinary Order after receiving it.

11. The parties agree that this Stipulated Settlement and Disciplinary Order shall be null and void and not binding upon the parties unless approved and adopted by the Board, except for this paragraph, which shall remain in full force and effect. Respondent fully understands and agrees that in deciding whether or not to approve and adopt this Stipulated Settlement and Disciplinary Order, the Board may receive oral and written communications from its staff and/or the Attorney General's office. Communications pursuant to this paragraph shall not disqualify the Board, any member thereof, and/or any other person from future participation in this or any other matter affecting or involving Respondent. In the event that the Board, in its discretion, does not approve and adopt this Stipulated Settlement and Disciplinary Order, with the exception of this paragraph, it shall not become effective, shall be of no evidentiary value whatsoever, and shall not be relied upon or introduced in any disciplinary action by either party hereto. Respondent further agrees that should the Board reject this Stipulated Settlement and Disciplinary Order for any reason, Respondent will assert no claim that the Board, or any member thereof, was prejudiced by its/his/her review, discussion and/or consideration of this Stipulated Settlement and Disciplinary Order or of any matter or matters related hereto.

ADDITIONAL PROVISIONS

12. This Stipulated Settlement and Disciplinary Order is intended by the parties herein to be an integrated writing representing the complete, final and exclusive embodiment of the agreements of the parties in the above-entitled matter.

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1 13. The parties agree that facsimile copies of this Stipulated Settlement and Disciplinary
2 Order, including facsimile signatures of the parties, may be used in lieu of original documents and
3 signatures and, further, that facsimile copies shall have the same force and effect as originals.

4 14. In consideration of the foregoing admissions and stipulations, the parties agree that
5 the Board may, without further notice or formal proceeding, issue and enter the following
6 Disciplinary Order:

7 **DISCIPLINARY ORDER**

8 **PUBLIC REPROVAL**


9 IT IS HEREBY ORDERED that Physical Therapist Assistant License No. AT5168, issued
10 to Respondent Romulo Leano Garcia, Jr., PTA, shall be and hereby is Publicly Reproved
11 pursuant to Business and Professions Code section 495. This Public Reproval is as follows:

12 On or about July 2, 2010, you entered a plea of no contest to a violation of
13 Vehicle Code section 23152, subdivision (a), misdemeanor driving under the
14 influence of alcohol, for which you received a sentence of three years summary
15 probation, enrollment in an alcohol safety class, and a fine of \$1638.00, payable in
16 monthly installments, among other conditions. You therefore used alcoholic
17 beverages to the extent, or in a manner, as to be dangerous or injurious to yourself,
18 another person, or the public, and have been convicted of a crime substantially
19 related to the qualifications, functions or duties of a physical therapist assistant.

20 **ACCEPTANCE**

21 I have carefully read the above Stipulated Settlement and Disciplinary Order and have fully
22 discussed it with my attorney, Charles D. Richmond, Esq. I understand the stipulation and the
23 effect it will have on my Physical Therapist Assistant License No. AT5168. I enter into this
24 Stipulated Settlement and Disciplinary Order voluntarily, knowingly, and intelligently, and agree
25 to be bound by the Decision and Order of the Physical Therapy Board of California.

26 DATED: 4/4/11


ROMULO LEANO GARCIA, JR., PTA
Respondent

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1 I have read and fully discussed with Respondent Romulo Leano Garcia, Jr., PTA the terms
2 and conditions and other matters contained in the above Stipulated Settlement and Disciplinary
3 Order. I approve its form and content.

4 DATED: 4/5/11


CHARLES D. RICHMOND, ESQ.
Attorney for Respondent

6
7 ENDORSEMENT

8 The foregoing Stipulated Settlement and Disciplinary Order is hereby respectfully
9 submitted for consideration by the Physical Therapy Board of California of the Department of
10 Consumer Affairs.

11 Dated: April 5, 2011

Respectfully submitted,

12 KAMALA D. HARRIS
13 Attorney General of California
14 THOMAS S. LAZAR
Supervising Deputy Attorney General

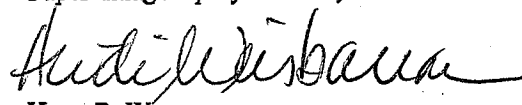
15 
16 HEIDI R. WEISBAUM
17 Deputy Attorney General
Attorneys for Complainant

Exhibit A

Accusation No. 1D-2010-68275

1 EDMUND G. BROWN JR.
Attorney General of California
2 THOMAS S. LAZAR
Supervising Deputy Attorney General
3 HEIDI R. WEISBAUM
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Attorneys for Complainant

FILED
STATE OF CALIFORNIA
PHYSICAL THERAPY BOARD OF CALIFORNIA
SACRAMENTO, CA November 5, 2010
BY C. Yuramanto ANALYST

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**BEFORE THE
PHYSICAL THERAPY BOARD OF CALIFORNIA
DEPARTMENT OF CONSUMER AFFAIRS
STATE OF CALIFORNIA**

In the Matter of the Accusation Against:

Case No. 1D-2010-68275

ROMULO LEANO GARCIA, JR., PTA
320 Cattlecall Drive
Brawley, CA 92227

A C C U S A T I O N

Physical Therapist Assistant
License No. AT5168

Respondent.

Complainant alleges:

PARTIES

1. Steven K. Hartzell (Complainant) brings this Accusation solely in his official capacity as the Executive Officer of the Physical Therapy Board of California, Department of Consumer Affairs.

2. On or about June 25, 1998, the Physical Therapy Board of California issued Physical Therapist Assistant License Number AT5168 to Respondent Romulo Leano Garcia, Jr., PTA (Respondent). The Physical Therapist Assistant License was in full force and effect at all times relevant to the charges brought herein, and will expire on March 31, 2012, unless renewed.

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JURISDICTION

3. This Accusation is brought before the Physical Therapy Board of California (Board), Department of Consumer Affairs, under the authority of the following laws. All section references are to the Business and Professions Code (Code) unless otherwise indicated.

4. Section 2660 of the Code states:

"The board may, after the conduct of appropriate proceedings under the Administrative Procedure Act, suspend for not more than 12 months, or revoke, or impose probationary conditions upon any license, certificate, or approval issued under this chapter for unprofessional conduct that includes, but is not limited to, one or any combination of the following causes:

"...

"(d) Conviction of a crime that substantially relates to the qualifications, functions, or duties of a physical therapist or physical therapist assistant.

The record of conviction or a certified copy thereof shall be conclusive evidence of that conviction.

"...

"(h) Conviction of a violation of any of the provisions of this chapter or of the Medical Practice Act, or violating, or attempting to violate, directly or indirectly, or assisting in or abetting the violating of, or conspiring to violate any provision or term of this chapter or of the Medical Practice Act.

"...."

5. Section 2661 of the Code states:

"A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge of a felony or of any offense which substantially relates to the qualifications, functions, or duties of a physical therapist is deemed to be a conviction within the meaning of this article. The board may order the license suspended or revoked, or may decline to issue a license, when the time

1 for appeal has elapsed, or the judgment of conviction has been affirmed on appeal
2 or when an order granting probation is made suspending the imposition of sentence,
3 irrespective of a subsequent order under Section 1203.4 of the Penal Code allowing
4 that person to withdraw his or her plea of guilty and to enter a plea of not guilty, or
5 setting aside the verdict of guilty, or dismissing the accusation, information, or
6 indictment."

7 6. California Code of Regulations, title 16, section 1399.20, states:

8 "For the purposes of denial, suspension or revocation of a license, pursuant
9 to Division 1.5 (commencing with Section 475) of the code, a crime or act shall
10 be considered to be substantially related to the qualifications, functions or duties of
11 a person holding a license under the Physical Therapy Practice Act if to a substantial
12 degree it evidences present or potential unfitness of a person to perform the functions
13 authorized by the license or approval in a manner consistent with the public health,
14 safety or welfare. Such crimes or acts shall include but not be limited to the
15 following:

16 "(a) Violating or attempting to violate, directly or indirectly, or assisting
17 in or abetting the violation of, or conspiring to violate any provision or term
18 of the Physical Therapy Practice Act.

19 "..."

20 7. Section 2239 of the Code states in pertinent part:

21 "(a) The use . . . of alcoholic beverages, to the extent, or in such a manner
22 as to be dangerous or injurious to the licensee, or to any other person or to the
23 public, . . . constitutes unprofessional conduct. The record of the conviction is
24 conclusive evidence of such unprofessional conduct."

25 COST RECOVERY

26 8. Section 2661.5 of the Code states:

27 "(a) In any order issued in resolution of a disciplinary proceeding before
28 the board, the board may request the administrative law judge to direct any

1 licensee found guilty of unprofessional conduct to pay to the board a sum not
2 to exceed the actual and reasonable costs of the investigation and prosecution
3 of the case.

4 "(b) The costs to be assessed shall be fixed by the administrative law judge
5 and shall not in any event be increased by the board. When the board does not
6 adopt a proposed decision and remands the case to an administrative law judge,
7 the administrative law judge shall not increase the amount of the assessed costs
8 specified in the proposed decision.

9 "(c) When the payment directed in an order for payment of costs is not made
10 by the licensee, the board may enforce the order of payment by bringing an
11 action in any appropriate court. This right of enforcement shall be in addition to
12 any other rights the board may have as to any licensee directed to pay costs.

13 "(d) In any judicial action for the recovery of costs, proof of the board's
14 decision shall be conclusive proof of the validity of the order of payment and
15 the terms for payment.

16 "(e) (1) Except as provided in paragraph (2), the board shall not renew
17 or reinstate the license or approval of any person who has failed to pay all
18 of the costs ordered under this section.

19 "(2) Notwithstanding paragraph (1), the board may, in its discretion,
20 conditionally renew or reinstate for a maximum of one year the license or
21 approval of any person who demonstrates financial hardship and who enters
22 into a formal agreement with the board to reimburse the board within that
23 one year period for those unpaid costs.

24 "(f) All costs recovered under this section shall be deposited in the
25 Physical Therapy Fund as a reimbursement in either the fiscal year in which
26 the costs are actually recovered or the previous fiscal year, as the board may
27 direct."

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1 **FIRST CAUSE FOR DISCIPLINE**

2 (Conviction of Substantially Related Crime)

3 9. Respondent is subject to disciplinary action under Code sections 2660, as defined by
4 section 2660, subdivision (d), 2661, and California Code of Regulations, title 16, section 1399.20,
5 in that he was convicted of a crime substantially related to the qualifications, functions or duties
6 of a physical therapist assistant. The circumstances are as follows:

7 10. On or about October 17, 2009, at about 2025, Respondent was arrested for felony
8 driving under the influence of alcohol and causing injury to another person. Respondent had been
9 driving to the store with his two sons, ages 10 and 7, when he swerved to avoid an animal and
10 collided with another vehicle in the oncoming lane. Respondent's younger son sustained bruising
11 and minor lacerations to his face. The driver of the second vehicle sustained bruising and small
12 lacerations to her right hand. Respondent was given a breath test, the results of which were .11%
13 and .12%.

14 11. On or about March 9, 2010, a felony complaint was filed in the Imperial County
15 Superior Court, entitled *People of the State of California v. Romulo Leano Garcia Jr.*, Case No.
16 JCF25069, charging Respondent with driving under the influence causing injury, in violation of
17 Vehicle Code section 23153, subdivision (a), and with driving with a blood alcohol percent
18 greater than .08% causing injury, in violation of Vehicle Code section 23153, subdivision (b).

19 12. On or about July 2, 2010, pursuant to a plea bargain, a third count was added to the
20 complaint charging Respondent with misdemeanor driving under the influence, in violation of
21 Vehicle Code section 23152, subdivision (a), to which he entered a plea of no contest. The
22 remaining counts in the complaint were dismissed. Respondent was sentenced to three years
23 summary probation, enrollment in an alcohol safety class, and a fine of \$1638.00, payable in
24 monthly installments beginning September 9, 2010, among other conditions.

25 **SECOND CAUSE FOR DISCIPLINE**

26 (Use of Alcoholic Beverages in a Dangerous or Injurious Manner)

27 13. Respondent is further subject to disciplinary action under section 2660, as defined by
28 sections 2660, subdivision (h), 2239, subdivision (a), and California Code of Regulations title 16,


1 section 1399.20, in that respondent used alcoholic beverages to the extent, or in a manner, as to be
2 dangerous or injurious to himself, another person, or the public, as more specifically described
3 above in paragraph 10, which is incorporated herein by reference.

4 **PRAYER**

5 WHEREFORE, Complainant requests that a hearing be held on the matters herein alleged,
6 and that following the hearing, the Physical Therapy Board of California issue a decision:

- 7 1. Revoking, suspending, or ordering probation subject to terms or conditions for the
8 Physical Therapist Assistant License Number AT5168, issued to Romulo Leano Garcia, Jr., PTA;
9 2. Ordering Romulo Leano Garcia, Jr., PTA, to pay the Physical Therapy Board of
10 California the reasonable costs of the investigation and enforcement of this case, pursuant to
11 Business and Professions Code section 2661.5; and,
12 3. Taking such other and further action as deemed necessary and proper.

13 DATED: November 5, 2010

14 
15 STEVEN K. HARTZELL
16 Executive Officer
17 Physical Therapy Board of California
18 Department of Consumer Affairs
19 State of California
20 Complainant
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